



Senate

General Assembly

File No. 652

January Session, 2013

Substitute Senate Bill No. 1007

Senate, May 1, 2013

The Committee on Labor and Public Employees reported through SEN. OSTEN of the 19th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING REVISIONS TO THE PAID SICK LEAVE STATUTES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 31-57r of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2013*):

3 As used in this section and sections 31-57s to 31-57w, inclusive:

4 (1) "Child" means a biological, adopted or foster child, stepchild,
5 legal ward of a service worker, or a child of a service worker standing
6 in loco parentis, who is (A) under eighteen years of age; or (B) eighteen
7 years of age or older and incapable of self-care because of a mental or
8 physical disability;

9 (2) "Day or temporary worker" means an individual who performs
10 work for another on (A) a per diem basis, or (B) an occasional or
11 irregular basis for only the time required to complete such work,
12 whether such individual is paid by the person for whom such work is

13 performed or by an employment agency or temporary help service, as
14 defined in section 31-129;

15 (3) "Employee" means an individual engaged in service to an
16 employer in the business of the employer;

17 (4) "Employer" means any person, firm, business, educational
18 institution, nonprofit agency, corporation, limited liability company or
19 other entity that employs fifty or more individuals in the state, [in any
20 one quarter in the previous year,] which shall be determined [on
21 January first, annually. Such determination shall be made based upon
22 the wage information submitted to the Labor Commissioner by the
23 employer pursuant to subsection (j) of section 31-225a] based on the
24 employer's payroll for the week containing October first, annually.

25 "Employer" does not include: (A) Any business [establishment
26 classified in] that is primarily engaged in activities that would be
27 included in sector 31, 32 or 33 in the North American Industrial
28 Classification System, or (B) any nationally chartered organization
29 exempt from taxation under Section 501(c)(3) of the Internal Revenue
30 Code of 1986, or any subsequent corresponding internal revenue code
31 of the United States, as from time to time amended, that provides all of
32 the following services: Recreation, child care and education;

33 (5) "Family violence" has the same meaning as provided in section
34 46b-38a;

35 (6) "Retaliatory personnel action" means any termination,
36 suspension, constructive discharge, demotion, unfavorable
37 reassignment, refusal to promote, disciplinary action or other adverse
38 employment action taken by an employer against an employee or a
39 service worker;

40 (7) "Service worker" means an employee primarily engaged in an
41 occupation with one of the following broad or detailed occupation
42 code numbers and titles, as defined by the federal Bureau of Labor
43 Statistics Standard Occupational Classification system or any successor
44 system: (A) 11-9050 Food Service Managers; (B) 11-9110 Medical and

45 Health Services Managers; (C) 21-1020 Social Workers; (D) 21-1093
46 Social and Human Service Assistants; (E) 21-1094 Community Health
47 Workers; (F) 21-1099 Community and Social Service Specialists, All
48 Other; (G) 25-4020 Librarians; (H) 29-1050 Pharmacists; (I) 29-1070
49 Physician Assistants; (J) 29-1120 Therapists; (K) 29-1140 Registered
50 Nurses; (L) 29-1150 Nurse Anesthetists; (M) 29-1160 Nurse Midwives;
51 (N) 29-1170 Nurse Practitioners; (O) 29-2020 Dental Hygienists; (P) 29-
52 2040 Emergency Medical Technicians and Paramedics; (Q) 29-2050
53 Health Practitioner Support Technologists and Technicians; (R) 29-2060
54 Licensed Practical and Licensed Vocational Nurses; (S) 31-1011 Home
55 Health Aides; (T) 31-1012 Nursing Aides, Orderlies and Attendants;
56 (U) 31-1013 Psychiatric Aides; (V) 31-9091 Dental Assistants; (W) 31-
57 9092 Medical Assistants; (X) 33-9032 Security Guards; (Y) 33-9091
58 Crossing Guards; (Z) 35-1010 Supervisors of Food Preparation and
59 Serving Workers; (AA) 35-2010 Cooks; (BB) 35-2020 Food Preparation
60 Workers; (CC) 35-3010 Bartenders; (DD) 35-3020 Fast Food and
61 Counter Workers; (EE) 35-3030 Waiters and Waitresses; (FF) 35-3040
62 Food Servers, Nonrestaurant; (GG) 35-9010 Dining Room and Cafeteria
63 Attendants and Bartender Helpers; (HH) 35-9020 Dishwashers; (II) 35-
64 9030 Hosts and Hostesses, Restaurant, Lounge and Coffee Shop; (JJ)
65 35-9090 Miscellaneous Food Preparation and Serving Related Workers;
66 (KK) 37-2011 Janitors and Cleaners, Except Maids and Housekeeping
67 Cleaners; (LL) 37-2019 Building Cleaning Workers, All Other; (MM)
68 39-3030 Ushers, Lobby Attendants and Ticket Takers; (NN) 39-5010
69 Barbers, Hairdressers, Hairstylists and Cosmetologists; (OO) 39-6010
70 Baggage Porters, Bellhops and Concierges; (PP) 39-9010 Child Care
71 Workers; (QQ) 39-9021 Personal Care Aides; (RR) 41-1010 First-Line
72 Supervisors of Sales Workers; (SS) 41-2011 Cashiers; (TT) 41-2021
73 Counter and Rental Clerks; (UU) 41-2030 Retail Salespersons; (VV) 43-
74 3070 Tellers; (WW) 43-4080 Hotel, Motel and Resort Desk Clerks; (XX)
75 43-4170 Receptionists and Information Clerks; (YY) 43-5020 Couriers
76 and Messengers; (ZZ) 43-6010 Secretaries and Administrative
77 Assistants; (AAA) 43-9010 Computer Operators; (BBB) 43-9020 Data
78 Entry and Information Processing Workers; (CCC) 43-9030 Desktop
79 Publishers; (DDD) 43-9040 Insurance Claims and Policy Processing

80 Clerks; (EEE) 43-9050 Mail Clerks and Mail Machine Operators, Except
81 Postal Service; (FFF) 43-9060 Office Clerks, General; (GGG) 43-9070
82 Office Machine Operators, Except Computer; (HHH) 43-9080
83 Proofreaders and Copy Markers; (III) 43-9110 Statistical Assistants; (JJJ)
84 43-9190 Miscellaneous Office and Administrative Support Workers;
85 (KKK) 51-3010 Bakers; (LLL) 51-3020 Butchers and Other Meat, Poultry
86 and Fish Processing Workers; (MMM) 51-3090 Miscellaneous Food
87 Processing Workers; (NNN) 53-3010 Ambulance Drivers and
88 Attendants, Except Emergency Medical Technicians; (OOO) 53-3020
89 Bus Drivers; or (PPP) 53-3040 Taxi Drivers and Chauffeurs, and is (i)
90 paid on an hourly basis, or (ii) not exempt from the minimum wage
91 and overtime compensation requirements of the Fair Labor Standards
92 Act of 1938 and the regulations promulgated thereunder, as amended
93 from time to time. "Service worker" does not include day or temporary
94 workers;

95 (8) "Sexual assault" means any act that constitutes a violation of
96 section 53a-70, 53a-70a, 53a-70b, 53a-71, 53a-72a, 53a-72b or 53a-73a;
97 [and]

98 (9) "Spouse" means a husband or wife, as the case may be; [.] and

99 (10) "Year" means any three-hundred-sixty-five-day period used by
100 an employer to calculate employee benefits.

101 Sec. 2. Section 31-57s of the general statutes is repealed and the
102 following is substituted in lieu thereof (*Effective October 1, 2013*):

103 (a) Each employer shall provide paid sick leave annually to each of
104 such employer's service workers in the state. Such paid sick leave shall
105 accrue (1) beginning January 1, 2012, or for a service worker hired after
106 said date, beginning on the service worker's date of employment, (2) at
107 a rate of one hour of paid sick leave for each forty hours of weekly
108 scheduled hours worked by a service worker, and (3) in one-hour
109 increments up to a maximum of forty hours per [calendar] year. Each
110 service worker shall be entitled to carry over up to forty unused
111 accrued hours of paid sick leave from the current [calendar] year to the

112 following [calendar] year, but no service worker shall be entitled to use
113 more than the maximum number of accrued hours, as described in
114 subdivision (3) of this subsection, in any year and no service worker
115 shall be entitled to paid sick leave in excess of five scheduled work
116 days in any year.

117 (b) A service worker shall be entitled to the use of accrued paid sick
118 leave upon the completion of the service worker's six-hundred-
119 eightieth hour of employment from January 1, 2012, if the service
120 worker was hired prior to January 1, 2012, or if hired after January 1,
121 2012, upon the completion of the service worker's six-hundred-
122 eightieth hour of employment from the date of hire, unless the
123 employer agrees to an earlier date. A service worker shall not be
124 entitled to the use of accrued paid sick leave if such service worker did
125 not work an average of ten or more hours [a] per week for the
126 employer in the most recent complete [calendar] quarter.

127 (c) An employer shall be deemed to be in compliance with this
128 section if the employer offers any other paid leave, or combination of
129 other paid leave that (1) may be used for the purposes of section 31-57t,
130 as amended by this act, and (2) is accrued in total at a rate equal to or
131 greater than the rate described in subsections (a) and (b) of this section.
132 For the purposes of this subsection, "other paid leave" may include, but
133 not be limited to, paid vacation, personal days or paid time off.

134 (d) Each employer shall pay each service worker for paid sick leave
135 at a pay rate equal to the greater of either (1) the normal hourly wage
136 for that service worker, or (2) the minimum fair wage rate under
137 section 31-58 in effect for the pay period during which the employee
138 used paid sick leave. For any service worker whose hourly wage varies
139 depending on the work performed by the service worker, the "normal
140 hourly wage" shall mean the average hourly wage of the service
141 worker in the pay period prior to the one in which the service worker
142 used paid sick leave.

143 (e) Notwithstanding the provisions of this section and sections 31-
144 57t to 31-57w, inclusive, as amended by this act, and upon the mutual

145 consent of the service worker and employer, a service worker who
146 chooses to work additional hours or shifts during the same or
147 following pay period, in lieu of hours or shifts missed, shall not use
148 accrued paid sick leave.

149 (f) A service worker shall be entitled to use accrued paid sick leave
150 in one-hour increments, except an employer may require a service
151 worker using intermittent leave or working a reduced leave schedule,
152 as described in section 31-51ll, to use accrued paid sick leave for such
153 service worker's entire shift if the employer reasonably believes that
154 such service worker's use of accrued paid sick leave in one-hour
155 increments would be impracticable.

156 Sec. 3. Subsection (b) of section 31-57t of the general statutes is
157 repealed and the following is substituted in lieu thereof (*Effective*
158 *October 1, 2013*):

159 (b) If a service worker's need to use paid sick leave is foreseeable, an
160 employer may require advance notice, not to exceed seven days prior
161 to the date such leave is to begin, of the intention to use such leave. If a
162 service worker's need for such leave is not foreseeable, an employer
163 may require a service worker to give notice of such intention as soon as
164 practicable. For paid sick leave of three or more consecutive days, an
165 employer may require reasonable documentation that such leave is
166 being taken for [the purpose] one of the purposes permitted under
167 subsection (a) of this section. If such leave is permitted under
168 subdivision (1) or (2) of subsection (a) of this section, documentation
169 signed by a health care provider who is treating the service worker or
170 the service worker's child or spouse indicating the need for the number
171 of days of such leave shall be considered reasonable documentation. If
172 such leave is permitted under subdivision (3) of subsection (a) of this
173 section, a court record or documentation signed by a service worker or
174 volunteer working for a victim services organization, an attorney, a
175 police officer or other counselor involved with the service worker shall
176 be considered reasonable documentation.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>October 1, 2013</i>	31-57r
Sec. 2	<i>October 1, 2013</i>	31-57s
Sec. 3	<i>October 1, 2013</i>	31-57t(b)

LAB *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill, which makes several minor changes to the paid sick leave law, has no fiscal impact. The changes are not anticipated to impact the cost to the state or municipalities of administering or providing paid sick leave to their employees, or to impact the cost to the Labor Department of enforcing the law.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sSB 1007*****AN ACT CONCERNING REVISIONS TO THE PAID SICK LEAVE STATUTES.*****SUMMARY:**

This bill changes the method for determining whether an employer must provide such leave, which could result in fewer employers providing paid sick leave. The bill also changes the timeframe for accruing such leave and how employees may use such leave. Under current law, employers must provide paid sick leave based on the type of business they conduct at each business site and the number of people they employ during any of the business' calendar quarters for the prior year.

EFFECTIVE DATE: October 1, 2013

BUSINESS CLASSIFICATION

Current law exempts manufacturers from providing paid sick leave based on how the North American Industrial Classification System (NAICS) classifies the type of activity conducted at each of their establishments. Consequently, a manufacturer with administrative and production facilities in separate locations could be required to provide paid sick leave at the administrative facility, but not the production one. The bill exempts manufacturers as long as their business falls under NAICS's manufacturing categories, regardless of the activities they conduct at different facilities.

EMPLOYEE THRESHOLD

The bill changes the method for determining if a business meets the employee threshold for providing paid sick leave. Under current law, they must provide paid sick leave if they employ at least 50 people in Connecticut during any of the previous year's quarters. They must

determine if they exceed this threshold by January 1 annually based on the quarterly reports they submit to the labor commissioner. Under the bill, they must annually determine if they meet the threshold based on their payroll for the week of October 1.

TIMEFRAME FOR ACCRUING LEAVE

The bill changes the timeframe for accruing paid sick leave. Under current law, employees accrue one hour of sick leave for every 40 hours worked per calendar year. Under the bill, they accrue one hour of paid sick leave for every 40 hours they were scheduled to work in a week during the 365-day year their employer determines employee benefits. The change in year allows the employer to start the benefit year on any date, rather than January, as current law require. The bill also explicitly limits the employee's paid sick leave to five scheduled workdays per year and makes other conforming changes.

USE OF ACCRUED LEAVE

The bill specifies how employees may use their accrued paid sick leave. As a rule, it entitles them to use the leave in one-hour increments, the same rate at which they may accrue such leave. But it also sets conditions under which employers can require workers to take the leave for their entire shift. An employer can require an employee to do so if (1) he or she is taking intermittent leave or working reduced hours for the reasons the law allows and the (2) employer reasonably believes it would be impractical for the employee to take the leave in one-hour increments.

By law, an employee can take intermittent leave or work reduced hours to serve as an organ or bone marrow donor, care for a seriously ill relative, or attend to the employee's serious health condition.

BACKGROUND

Legislative History

The Senate referred the bill (File 389) to the Labor Committee, which reported a substitute that (1) specifies employees can accrue no more than one hour of paid sick leave for every 40 hours of weekly

scheduled work and (2) sets conditions under which employers can require employees to take leave for their entire shift instead of one-hour increments.

COMMITTEE ACTION

Commerce Committee

Joint Favorable Substitute

Yea 19 Nay 0 (03/19/2013)

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 9 Nay 0 (04/23/2013)